

APR 29 1986

*Thompson*  
*Duane Marine*

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April 28, 1986

Margaret Thompson, Esq.  
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UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY - REGION II  
26 Federal Plaza  
New York, New York 10278

Re: Duane Marine Site - Perth Amboy, NJ  
Administrative Orders II-CERCLA-50102,  
II-CERCLA-50105, and II-CERCLA-50107

Dear Ms. Thompson:

The work of cleaning the 250,000-gallon tank was the last function to be performed under our contracts with the clean-up contractors. The entire surface clean-up was completed in the time period provided by the Orders as amended on March 15, 1986. We write to request that the Orders as amended therefore be discharged and the work required by those Orders declared completed.

This clean-up was ordered to prevent the release from the Site of materials stored on the surface and to prevent harm from direct human contact with those surface materials. Those purposes have been served. The alleged release or threatened release of hazardous substances from the barrels, tanks, and surface soil at the Site, which was the risk alleged by the Orders, has been completely avoided.

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Whatever may have been the original condition of the premises, as a result of the work we have done there is no remaining "imminent and substantial endangerment to the public health or welfare or the environment." Furthermore, there is no "actual or threatened release" of any hazardous substance from the Site. Since the purpose of the Orders has been fulfilled and the jurisdictional limits of §106 have been reached, a determination as to what additional work, if any, is needed, should be decided in accordance with the provisions of the National Contingency Plan. Any further proceedings regarding this Site should also, at least in the first instance, be directed to those who have not cooperated in this clean-up.

A question has arisen as an interpretative matter involving that provision of the approved Work Plan which calls for the removal of visibly contaminated soils. Visibly contaminated surface soils within the reinforced concrete dike around the 250,000-gallon tank have been removed. Now the soil below the surface layer appears discolored. The discoloration is not surprising as the land is immediately adjacent to the Arthur Kill and, apparently, the Site was built into the Kill with fill material. Some PCB material at the 10 p.p.m. level has been detected in that soil. With regard to the newly exposed discolored soils, if there is a belief that they may pose a threat of injury through direct human contact, the Committee recommends covering them pending further evaluation by the USEPA.

Removal of subsurface soils is beyond the scope of, and would not serve the purposes of, the present Orders. From an engineering perspective, such removal is by no means a minor or risk-free matter. It is not known how deep the discoloration may run. Any significant removal of subsurface soil around the base of the 250,000-gallon tank could cause the tank to fall for lack of lateral and subjacent support. As a result, soil removal will involve significant additional structural engineering. Then too, the subsurface conditions and the impact of soil removal upon those conditions are not known. Because of these questions, further soil removal will involve significant additional environmental engineering which is clearly a subsurface issue.

We urge that the USEPA acknowledge that the Work Plan and the Administrative Orders have been complied with. The USEPA should now look to those who have not cooperated in this clean-up. They should do any further work, if any, consistent with the National Contingency Plan which needs to be done at this Site. The USEPA should expressly authorize us to cease the costly maintenance of guard service. The requirement that we provide that service should end now or as soon as possible consistent

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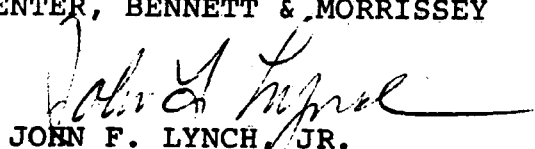
with any arrangements for replacement security the USEPA wishes to provide.

We respectfully ask the USEPA's prompt attention to these matters.

Very truly yours,

CARPENTER, BENNETT & MORRISSEY

BY:

  
JOHN F. LYNCH, JR.  
FOR THE DUANE MARINE  
STEERING COMMITTEE

JFL/dms